

November 20, 2024

LAURA A. AUSTIN, CLERK

BY:

/s/ T. Taylor
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

KEVIN ALLEN ROBINSON,

Plaintiff,

V.

SGT. FRICK,

Defendant.

Case No. 7:24CV00091

OPINION

JUDGE JAMES P. JONES

*Kevin Allen Robinson, Pro Se Plaintiff; Brittany Nathan H. Schnetzler,
FRITH ANDERSON & PEAKE PC, Roanoke, Virginia, for Defendant.*

The plaintiff, Kevin Allen Robinson, proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983, alleging that while he was incarcerated at the Patrick County Jail, the defendant used excessive force against him in violation of his constitutional rights. The court entered an Order conditionally filing the case and warning Robinson that failure to notify the Court of a change in his mailing address would result in dismissal of the case without prejudice. Robinson twice notified the court of address changes and filed an Amended Complaint. The defendant filed a Motion for Summary Judgment, and the court mailed a Notice of that motion to Robinson at the address he had most recently provided. The mailing that contained the Notice was returned to the court marked as undeliverable, with no ability to forward the mailing. It is self-evident that the court must have a

viable address by which to communicate reliably with Robinson about this case. The court has had no communication from Robinson since May 2024.

Based on Robinson's failure to provide the court with a current mailing address, I conclude that he is no longer interested in pursuing this civil action. Therefore, I will dismiss the action without prejudice for failure to prosecute. *See Ballard v. Carlson*, 882 F.2d 93, 96 (4th Cir. 1989) (stating pro se litigants are subject to time requirements and respect for court orders and dismissal is an appropriate sanction for non-compliance); *Donnelly v. Johns-Manville Sales Corp.*, 677 F.2d 339, 340-41 (3d Cir. 1982) (recognizing a district court may sua sponte dismiss an action pursuant to Fed. R. Civ. P. 41(b)).

An appropriate Order will issue herewith.

DATED: November 20, 2024

/s/ JAMES P. JONES

Senior United States District Judge